

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSE M. TORRES,

Plaintiff,

v.

INSPIRE DEVELOPMENT
CENTERS, a non-profit corporation,

Defendant.

NO: 13-CV-3062-TOR

STIPULATED PROTECTIVE ORDER

BEFORE THE COURT is the parties' Stipulated Motion for Protective Order (ECF No. 11). Pursuant to the parties' stipulation, the motion is **GRANTED.**

Accordingly, **IT IS HEREBY ORDERED:**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the

1 following Stipulated Protective Order. This agreement does not confer blanket
2 protection on all disclosures or responses to discovery. The protection it affords
3 from public disclosure and use extends only to the limited information or items that
4 are entitled to confidential treatment under the applicable legal principles, and it
5 does not presumptively entitle parties to file confidential information under seal.

6 **2. “CONFIDENTIAL” MATERIAL**

7 “Confidential” material shall include the following documents and tangible
8 things produced or otherwise exchanged: documents from the personnel file of
9 Manuel Cruz and other documents containing confidential information related to
10 third parties.

11 **3. SCOPE**

12 The protections conferred by this agreement cover not only confidential
13 material (as defined above), but also (1) any information copied or extracted from
14 confidential material; (2) all copies, excerpts, summaries, or compilations of
15 confidential material; and (3) any testimony, conversations, or presentations by
16 parties or their counsel that might reveal confidential material. However, the
17 protections conferred by this agreement do not cover information that is in the
18 public domain or becomes part of the public domain through trial or otherwise.

19 **4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL**

20 4.1 Basic Principles. A receiving party may use confidential material that
is disclosed or produced by another party or by a non-party in connection with this
case only for prosecuting, defending, or attempting to settle this litigation.
Confidential material may be disclosed only to the categories of persons and under
the conditions described in this agreement. Confidential material must be stored
and maintained by a receiving party at a location and in a secure manner that
ensures that access is limited to the persons authorized under this agreement.

1 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the designating party, a
3 receiving party may disclose any confidential material only to:

4 (a) the receiving party’s counsel of record in this action, as well as
5 employees of counsel to whom it is reasonably necessary to disclose the
6 information for this litigation;

7 (b) the officers, directors, and employees (including in house
8 counsel) of the receiving party to whom disclosure is reasonably necessary for this
9 litigation, unless the parties agree that a particular document or material produced
10 is for Attorney’s Eyes Only and is so designated;

11 (c) experts and consultants to whom disclosure is reasonably
12 necessary for this litigation and who have signed the “Acknowledgment and
13 Agreement to Be Bound” (Exhibit A);

14 (d) the court, court personnel, and court reporters and their staff;

15 (e) copy or imaging services retained by counsel to assist in the
16 duplication of confidential material, provided that counsel for the party retaining
17 the copy or imaging service instructs the service not to disclose any confidential
18 material to third parties and to immediately return all originals and copies of any
19 confidential material;

20 (f) during their depositions, witnesses in the action to whom
disclosure is reasonably necessary and who have signed the “Acknowledgment and
Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the designating
party or ordered by the court. Pages of transcribed deposition testimony or exhibits
to depositions that reveal confidential material must be separately bound by the
court reporter and may not be disclosed to anyone except as permitted under this
agreement; and

1 (g) the author or recipient of a document containing the
2 information or a custodian or other person who otherwise possessed or knew the
3 information.

4 4.3 Filing Confidential Material. Before filing confidential material or
5 discussing or referencing such material in court filings, the filing party shall confer
6 with the designating party to determine whether the designating party will remove
7 the confidential designation, whether the document can be redacted, or whether a
8 motion to seal or stipulation and proposed order is warranted.

9 **5. DESIGNATING PROTECTED MATERIAL**

10 5.1 Exercise of Restraint and Care in Designating Material for Protection.
11 Each party or non-party that designates information or items for protection under
12 this agreement must take care to limit any such designation to specific material that
13 qualifies under the appropriate standards. The designating party must designate for
14 protection only those parts of material, documents, items, or oral or written
15 communications that qualify, so that other portions of the material, documents,
16 items, or communications for which protection is not warranted are not swept
17 unjustifiably within the ambit of this agreement.

18 Mass, indiscriminate, or routinized designations are prohibited.
19 Designations that are shown to be clearly unjustified or that have been made for an
20 improper purpose (e.g., to unnecessarily encumber or delay the case development
process or to impose unnecessary expenses and burdens on other parties) expose
the designating party to sanctions.

If it comes to a designating party's attention that information or items that it
designated for protection do not qualify for protection, the designating party must
promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in
this agreement (see, e.g., second paragraph of section 5.2(a) below), or as

1 otherwise stipulated or ordered, disclosure or discovery material that qualifies for
2 protection under this agreement must be clearly so designated before or when the
3 material is disclosed or produced.

4 (a) Information in documentary form: (*e.g.*, paper or electronic
5 documents and deposition exhibits, but excluding transcripts of depositions or
6 other pretrial or trial proceedings), the designating party must affix the word
7 “CONFIDENTIAL” to each page that contains confidential material. If only a
8 portion or portions of the material on a page qualifies for protection, the producing
9 party also must clearly identify the protected portion(s) (*e.g.*, by making
10 appropriate markings in the margins).

11 (b) Testimony given in deposition or in other pretrial or trial
12 proceedings: the parties must identify on the record, during the deposition, hearing,
13 or other proceeding, all protected testimony, without prejudice to their right to so
14 designate other testimony after reviewing the transcript. Any party or non-party
15 may, within fifteen days after receiving a deposition transcript, designate portions
16 of the transcript, or exhibits thereto, as confidential.

17 (c) Other tangible items: the producing party must affix in a
18 prominent place on the exterior of the container or containers in which the
19 information or item is stored the word “CONFIDENTIAL.” If only a portion or
20 portions of the information or item warrant protection, the producing party, to the
extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
failure to designate qualified information or items does not, standing alone, waive
the designating party’s right to secure protection under this agreement for such
material. Upon timely correction of a designation, the receiving party must make
reasonable efforts to ensure that the material is treated in accordance with the
provisions of this agreement.

1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1 Timing of Challenges. Any party or non-party may challenge a
3 designation of confidentiality at any time. Unless a prompt challenge to a
4 designating party's confidentiality designation is necessary to avoid foreseeable,
5 substantial unfairness, unnecessary economic burdens, or a significant disruption
6 or delay of the litigation, a party does not waive its right to challenge a
7 confidentiality designation by electing not to mount a challenge promptly after the
8 original designation is disclosed.

9 6.2 Meet and Confer. The parties must make every attempt to resolve any
10 dispute regarding confidential designations without court involvement. Any
11 motion regarding confidential designations or for a protective order must include a
12 certification, in the motion or in a declaration or affidavit, that the movant has
13 engaged in a good faith meet and confer conference with other affected parties in
14 an effort to resolve the dispute without court action. The certification must list the
15 date, manner, and participants to the conference. A good faith effort to confer
16 requires a face-to-face meeting or a telephone conference.

17 6.3 Judicial Intervention. If the parties cannot resolve a challenge without
18 court intervention, the designating party may file and serve a motion to retain
19 confidentiality under Local Civil Rule 7.1. The burden of persuasion in any such
20 motion shall be on the designating party. Frivolous challenges, and those made for
an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
on other parties) may expose the challenging party to sanctions. All parties shall
continue to maintain the material in question as confidential until the court rules on
the challenge.

1 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
2 **PRODUCED IN OTHER LITIGATION**

3 If a party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this action as
5 “CONFIDENTIAL,” that party must:

6 (a) promptly notify the designating party in writing and include a copy of
7 the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order
9 to issue in the other litigation that some or all of the material covered by the
10 subpoena or order is subject to this agreement. Such notification shall include a
11 copy of this agreement; and

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the designating party whose confidential material may be affected.

14 **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

15 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
16 confidential material to any person or in any circumstance not authorized under
17 this agreement, the receiving party must immediately (a) notify in writing the
18 designating party of the unauthorized disclosures, (b) use its best efforts to retrieve
19 all unauthorized copies of the protected material, (c) inform the person or persons
20 to whom unauthorized disclosures were made of all the terms of this agreement,
and (d) request that such person or persons execute the “Acknowledgment and
Agreement to Be Bound” that is attached hereto as Exhibit A.

18 **9. INADVERTENT PRODUCTION OF PRIVILEGED OR**
19 **OTHERWISE PROTECTED MATERIAL**

20 When a producing party gives notice to receiving parties that certain
inadvertently produced material is subject to a claim of privilege or other
protection, the obligations of the receiving parties are those set forth in Federal

1 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
2 whatever procedure may be established in an e-discovery order or agreement that
3 provides for production without prior privilege review. Parties shall confer on an
appropriate non-waiver order under Fed. R. Evid. 502.

4 **10. NON TERMINATION AND RETURN OF DOCUMENTS**

5 Within 60 days after the termination of this action, including all appeals,
6 each receiving party must return all confidential material to the producing party,
7 including all copies, extracts and summaries thereof. Alternatively, the parties may
agree upon appropriate methods of destruction.

8 Notwithstanding this provision, counsel are entitled to retain one archival
9 copy of all documents filed with the court, trial, deposition, and hearing transcripts,
10 correspondence, deposition and trial exhibits, expert reports, attorney work
11 product, and consultant and expert work product, even if such materials contain
confidential material.

12 The confidentiality obligations imposed by this agreement shall remain in
13 effect until a designating party agrees otherwise in writing or a court orders
otherwise.

14 **IT IS SO ORDERED.**

15 The District Court Executive is hereby directed to enter this Order and
16 provide copies to counsel.

17 **DATED** March 20, 2014.



Thomas O. Rice
THOMAS O. RICE
United States District Judge

EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Eastern District of
Washington on _____ [date] in the case of *Jose M. Torres v. Inspire
Development Centers, a Non-Profit Corporation*, Docket No. 13-CV-3062 TOR. I
agree to comply with and to be bound by all the terms of this Stipulated Protective
Order and I understand and acknowledge that failure to so comply could expose
me to sanctions and punishment in the nature of contempt. I solemnly promise that
I will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance with
the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Eastern District of Washington for the purpose of enforcing the terms
of this Stipulated Protective Order, even if such enforcement proceedings occur
after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____